

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF ARKANSAS
FAYETTEVILLE DIVISION

JILL DILLARD, JESSA SEEWALD, JINGER VUOLO, and JOY DUGGAR,
Plaintiffs,

vs. No. 5:17-CV-05089-TLB
CITY OF SPRINGDALE; WASHINGTON COUNTY; KATHY O'KELLEY;
ERNEST CATE; RICK HOYT; STEVE ZEGA; BAUER PUBLISHING
COMPANY, L.P.; BAUER MAGAZINE, L.P.; BAUER MEDIA GROUP,
INC.; BAUER, INC.; HEINRICH BAUER NORTH AMERICA, INC.;
BAUER MEDIA GROUP USA, LLC; and DOES 1-10, Inclusive,
Defendants.

VIDEOCONFERENCE DEPOSITION OF STEVEN ZEGA
TAKEN ON BEHALF OF THE PLAINTIFFS
ON SEPTEMBER 9, 2021, BEGINNING AT 10:03 A.M.
ALL PARTIES APPEARING REMOTELY
REPORTED BY KERRI PIANALTO, CCR

APPEARANCES:

By videoconference on behalf of the PLAINTIFFS

Steven E. Bledsoe
Nicole J. Kim
LARSON, LLP
555 South Flower Street, Suite 4400
Los Angeles, California 90071
213-436-4888
sbledsoe@larsonllp.com

Shawn B. Daniels
DANIELS LAW FIRM, PLLC
129 W. Sunbridge Drive
Fayetteville, Arkansas 72703
479-521-7000
shawn@danielsfirm.com

JOB NO. 10087128

1 By videoconference on behalf of the DEFENDANTS CITY OF
2 SPRINGDALE, KATHY O'KELLEY AND ERNEST CATE

3 Susan Keller Kendall
4 KENDALL LAW FIRM, PLLC
5 3706 Pinnacle Hills Parkway, Suite 201
6 Rogers, Arkansas 72758
7 479-464-9828
8 skk@kendalllawfirm.com
9 Thomas N. Kieklak
10 Morgan Doughty
11 HARRINGTON, MILLER, KIEKLAK, EICHMANN & BROWN
12 4710 S. Thompson, Suite 102
13 Springdale, Arkansas 72764
14 479-751-6464
15 tkieklak@arkansaslaw.com

16 By videoconference on behalf of the DEFENDANTS WASHINGTON
17 COUNTY, RICK HOYT AND STEVE ZEGA

18 Jason E. Owens
19 JASON OWENS LAW FIRM, P.A.
20 1023 Main Street, Suite 204
21 Conway, Arkansas 72032
22 501-764-4334
23 owens@jowenslawfirm.com
24
25

INDEX

Page

Direct Examination by Mr. Bledsoe

4

EXHIBITS

Number

Description

Page

EXHIBIT 29 Washington County Sheriff's Office

17

Incident Report

EXHIBIT 30 5/15/15 FOIA Request

28

EXHIBIT 31 CNN Article

31

STIPULATIONS

It is stipulated that the deposition of STEVEN ZEGA may be taken pursuant to agreement and in accordance with the Federal Rules of Civil Procedure on September 9, 2021, before Kerri Pianalto, CCR.

1 WHEREUPON,

2 STEVEN ZEGA,

3 after having been first duly sworn, deposes and says in
4 reply to the questions propounded as follows, to-wit:

5 DIRECT EXAMINATION

6 BY MR. BLEDSOE:

7 Q Mr. Zega, could you state your full name?

8 A Steven Stokely Kenneth Zega.

9 THE COURT REPORTER: I'm sorry, I didn't hear
10 your name, the middle name.

11 A Steven Stokely Kenneth Zega.

12 Q (BY MR. BLEDSOE) Can you tell us your
13 educational background since high school?

14 A I graduated from the University of Arkansas with
15 a bachelor of arts in 1990 and the University of Arkansas
16 School of Law with a JD in 1993 and I have a litany of
17 Army schools if you want to hear about those, military.

18 Q Sure.

19 A Let's see, in 1991, I graduated from the
20 Arkansas Military Academy which is National Guard Officer
21 Candidate School program. In 1993, I graduated from the
22 field artillery officer basic course at Fort Sill,
23 Oklahoma. In 2003 or four, I graduated from the judge
24 advocate general's, JAG, officer's basic course by
25 correspondence. In 2005, I graduated from the judge

1 advocate general's basic advanced course, officer advanced
2 course. In 2009, I graduated from something called the
3 intermediate level education put on by the Army. In 2012,
4 I graduated from the military judge's course at the judge
5 advocate general school. I also, I've gone to other
6 seminars, training, but those are the schools that I have
7 been to for the Army and I'm having trouble recalling
8 anything else at this moment. Of course, lots of CLE.

9 Q Are you still in the Army?

10 A I'm in the National Guard, yes.

11 Q So what is your rank or position?

12 A I'm a colonel and I am officially access -- I
13 was recently the state judge, state military judge.

14 Q I have a brother that served in the Army as a
15 doctor, so I -- who doesn't love the Army, right?

16 All right. Can you walk us through your work
17 background since you graduated from law school in 1993?

18 A Sure. When I graduated from law school, I
19 immediately went to the field artillery officer -- well,
20 that's not true. I spent about three months studying for
21 the bar exam, took the bar exam in July of 1993, the
22 Arkansas bar, and then from July, the end of July of '93
23 to December of '93, I was at the field artillery school in
24 Fort Sill. I spent about two months looking for a
25 civilian job when I returned home and in late January or

1 early February of 1994, I became the deputy prosecuting
2 attorney in the 19th judicial district which includes
3 Benton and Carroll Counties. I held that job from
4 February -- late January of '94 or early February of '94
5 to September of '94. I became an associate at the
6 Lincoln, Arkansas firm of Boyce R. Davis Associates,
7 B-o-y-c-e, R. Davis Associates. I was an associate in
8 that firm from 1994 to 1999. In 1999, I became a partner
9 of the firm. We renamed the firm Davis and Zega, PLC. I
10 remained in that firm from '99 until 2006. In the
11 meantime, I deployed for the first time to Iraq. So in
12 October of 2003, I got called and we spent six months
13 training up, essentially, in Little Rock, Fort Hood and
14 Fort Sill -- I mean, not Fort Sill, Fort Polk, Louisiana,
15 spent ten months in the Middle East in Kuwait and Iraq,
16 got back in December of '05, spent four months demobbing
17 the 39th Infantry Brigade, demobilized the 39th Infantry
18 Brigade, went to -- spent a month on leave from the Army
19 and went back to work with Boyce. We hired an associate
20 and that firm -- that firm then became Davis, Parker &
21 Zega, PLC. I was there for four years. In 2010, Steve
22 Parker and I left and went to Prairie Grove, formed a firm
23 called Parker & Zega, PLC, was in that firm for a year
24 before I got called to Iraq again, spent basically
25 calendar year 2011 on active duty orders again, came home

1 in 2012 and worked with Steve for another two years before
2 the county judge at the time, Marilyn Edwards, called me
3 and asked me if I was interested in becoming county
4 attorney. The other jobs, plural, that I had during that
5 time, I was on the Washington County Quorum Court from the
6 beginning of 2001 until the end of 2010 minus that
7 deployment to Iraq in 2003 to 2005, and took a leave of
8 absence from the quorum court during that time, and I
9 also, because I don't have enough to do, umpire baseball
10 and I umpire high school baseball around here and I've
11 done that for years, since before I left law school.
12 Those are the things that I can think of that I've done
13 for money since 1993.

14 In 2014, I began the county attorney. I'm
15 sorry, I did not finish answering your question. I didn't
16 become the county attorney in 2014. I accepted the job, I
17 became the county attorney in January of 2015 and held the
18 job until the end of 2016. From January 2017 to
19 September 2017, I was a law clerk for the Honorable Joseph
20 J. Volpe, the United States magistrate judge in Little
21 Rock. I did his habeas work for nine months and then I
22 got offered a position in this firm that I am with now in
23 July or August of 2017 and I've been here ever since. I
24 was an associate for two years and now I'm a partner.

25 Q What's the name of the firm you're working out

1 of now?

2 A Crouch, Harwell, Fryar & Ferner, PLLC.

3 THE COURT REPORTER: Mr. Bledsoe, there's a
4 really bad echo when you speak.

5 MR. OWENS: I think someone -- I think someone
6 just joined and needs to mute probably.

7 MS. KENDALL: This is Susan Kendall and I --
8 it's Susan Kendall, but I was muted, but it's Susan
9 Kendall. I'm going to mute again and see if that helps.

10 MR. KIEKLAK: Hi Susan.

11 MS. KENDALL: Hi there.

12 MR. BLEDSOE: Let's go off -- is this any
13 better?

14 THE COURT REPORTER: Yes.

15 Q (BY MR. BLEDSOE) Okay. Is the county attorney
16 an appointed position or elected position?

17 A Appointed.

18 Q And who appointed you as county attorney
19 beginning in January of 2015?

20 A County Judge Marilyn Edwards. There was a --
21 she's a former county judge. At the time there was a
22 confirmation process through the quorum court as well.

23 Q And were you appointed for a certain term?

24 A No.

25 Q When you were appointed as county attorney, was

1 it an open-ended position?

2 A It was at the pleasure of the county judge.

3 Q Okay. What were your duties and
4 responsibilities as the Washington County attorney?

5 A Basically, I was the civil attorney for the
6 county. I handled everything that wasn't a criminal
7 matter with some exceptions. So, for example, there was
8 no such thing as a typical day. I would in a given week,
9 I would write ordinances, write resolutions, I would
10 provide on-the-spot advice to county officials, elected
11 officials and their deputies who needed or wanted legal
12 advice. I was involved heavily in human resources issues.
13 I was required on four or five occasions to conduct -- to
14 be the investigator in the human resource complaints. Any
15 civil rights litigation that the county was involved in,
16 especially in the jail, the Association of Counties
17 handled, I would try to monitor that, but I wasn't
18 involved in actually litigating it. I did some litigation
19 for the county. I assisted in some litigation when the
20 county judge was sued in a civil rights case, that was
21 kind of an unusual thing, that didn't happen a whole lot
22 and so she wanted me personally involved in that so I
23 entered an appearance in that case. I would do some law
24 enforcement training on -- for the law enforcement, the
25 part time to law enforcement certification class the

1 sheriff's office put on. I attended almost every
2 committee meeting of the quorum court, I attended all the
3 planning meetings from the planning commission, read
4 contracts, reviewed contracts, wrote some contracts. I
5 did a lot of stuff.

6 Q Did you have other attorneys on staff that
7 worked for you or under your direction?

8 A I didn't have anyone -- I was a one-person show
9 as far as the attorney. About four or five months into my
10 tenure as county attorney I hired a woman named Lainey
11 Miller to be my assistant. My previous assistant got
12 promoted out of her position. Lainey is a licensed
13 attorney, but she was my assistant, so I would use
14 Lainey's legal training to do things like proof my memos
15 and opinions and, you know, run behind me and see if I had
16 cited everything correctly, that kind of thing.

17 Q But she was not hired in the capacity as a
18 lawyer for the county; is that correct?

19 A That's correct.

20 Q Was one of the entities to which you provided
21 legal advice the county sheriff's department?

22 A Yes.

23 Q In your position as Washington County attorney,
24 did you have the occasion to provide legal advice with
25 respect to FOIA requests that were sent to the county?

1 A Yes.

2 Q Why did you leave the county attorney's -- or
3 withdrawn.

4 Why did you leave your position as county
5 attorney in December of 2016?

6 A I was fired.

7 Q By whom?

8 A The county judge elect, Joseph Wood. He was a
9 county judge elect at the time. He's the county judge
10 now.

11 Q And did Mr. Wood ever tell you why he fired you
12 in December of 2016?

13 A Mr. Wood did not communicate his reasons to me
14 directly. I found some other things out, but, no is the
15 answer to your question.

16 Q When you say you found some other things out,
17 what did you find out about why County Judge Elect Joseph
18 Wood fired you in December of 2016?

19 A I'm a Democrat and he's a Republican. He had a
20 Republican attorney that he wanted to appoint. That
21 gentleman he did appoint -- he offered the job to him --
22 he offered the job to my successor before he won the
23 election and when he won the election, he, you know,
24 confirmed his offer of the job to him and that gentleman
25 took the job.

1 Q What were your responsibilities as Washington
2 county attorney in connection with FOIA requests made to
3 the county?

4 A So it varied depending on the request. When I
5 became aware of a particular request, I would provide
6 guidance directly to the person who asked me the question.
7 In other words, if we got a request to the county judge's
8 office in particular and the county judge's office was the
9 custodian of the records, whoever got the request, and
10 that might have been Judge Edwards herself, it might have
11 been her executive assistant, would bring me the request
12 and say, how do we answer this? And I would assist them
13 in formulating the answer. When it came to -- in
14 particular, when it came to the sheriff's office, I rarely
15 before this incident saw FOIA requests made to the
16 sheriff's office.

17 Q During the time that you were the county
18 attorney, was there a policy that when a FOIA request came
19 into the county that the department or county entity that
20 received the FOIA request was supposed to get legal advice
21 from you --

22 A There was not a policy -- there was not a
23 policy. I attempted to -- I encouraged through a couple
24 of e-mails and a couple face-to-face visits that that's
25 what they should do, but there was not a formal policy to

1 that effect, no.

2 Q So from the time you were county attorney, is it
3 true that you would provide legal advice and respond to
4 FOIA requests when you were asked to do so by the
5 particular county entity who received the FOIA request?

6 A That evolved, Mr. Bledsoe. Probably a year into
7 my tenure as county attorney, the county purchased --
8 entered into a contract with an entity that provided us
9 with a portal, a web-based portal, to make Freedom of
10 Information Act requests. I was -- I don't know if I was
11 an administrator in that portal, but I had -- I had access
12 to the portal full time so I would see web-based requests
13 as part of my daily whatever and part of what I did at
14 that time, once those web-based requests started coming in
15 is I would follow up to make sure that we had responded to
16 the requester. There are, you know, time limitations on
17 when you're supposed to get to somebody what they've asked
18 for and so part of what I tried to do was to make sure we
19 were tracking -- that the county was tracking the --
20 whether we closed out requests on time or not and I would
21 also look at that web-based portal to see if there were
22 what I considered to be particularly troublesome or
23 controversial, you know, exemptible Freedom of Information
24 Act requests that would require us to either deny the
25 request or to redact a bunch of things from requested

1 documents.

2 THE COURT REPORTER: Mr. Bledsoe, can we go off
3 the record for a minute?

4 (Short break from 10:22 a.m. to 10:24 a.m.)

5 Q (BY MR. BLEDSOE) Is it your best recollection,
6 Mr. Zega, that the web-based portal system you just
7 described was implemented about a year after you became
8 county attorney, so sometime in early 2016?

9 A Early 2015, yes. That's my recollection.

10 Q You testified earlier you became city attorney
11 beginning in January 2015?

12 A You're right, you're right. It would have been
13 2016. I got fired in -- at the end of 2016. My
14 apologies, you're correct.

15 Q No, it's okay. Just so we have a clear record,
16 is it true that your best recollection that the web-based
17 portal system for tracking and addressing FOIA requests
18 that was implemented by the county was implemented about a
19 year after you started, so sometime in early 2016?

20 A Late 2015 or early 2016, yes, sir. And Mr. -- I
21 want to be clear, you know, not all FOIA requests came
22 through that portal. That was just a way to manage some
23 requests.

24 Q What was the county's method for handling FOIA
25 requests in the May 2015 time frame?

1 A I don't know is the best answer to that
2 question. It varied from department to department and it
3 varied from elected official to elected official.

4 Q Prior to the end of May 2015, had the county
5 implemented any training system for how to respond to FOIA
6 requests?

7 A I'm not aware of any.

8 Q And is it true as of May 2015, in your position
9 as county attorney you would offer legal advice in
10 connection with the FOIA requests when you were asked to
11 do so by individuals at a county agency or division, but
12 otherwise that's not something that you would do?

13 A Again, that involved depending on my awareness
14 of the request. Here's what I mean by that. In May of
15 2015, that's definitely true. If I wasn't the person who
16 got the request personally, then it was a passive system
17 for me where someone would come to me and ask for advice.
18 When we implemented the web-based portal, I was monitoring
19 -- I was trying to actively monitor those requests and
20 stay on top of them and would volunteer advice when I
21 perceived a particular request to maybe be controversial
22 or troublesome.

23 Q So as -- withdrawn. We're hearing the feedback.

24 A Is it me?

25 Q Well, if you have a -- happen to have a cell

1 phone that's on or something close to the computer,
2 sometimes that will cause a problem, but I'm not going to
3 accuse anybody.

4 A I turned everything off except for my, you know,
5 my computer.

6 Q Okay. All right. Let's -- I want to focus just
7 on May 2015. So I do understand that your system changed
8 either in late 2015 or early 2016, but I just want to ask
9 about the system in May 2015, okay?

10 A Yes, sir.

11 Q Is it true that as of May 2015 in connection
12 with your position as the county attorney, you would
13 provide legal advice with respect to FOIA requests only
14 when you were asked by someone in the county who had
15 received a FOIA request, correct?

16 A That is correct.

17 Q And as of May 2015, there was not a system in
18 place where recipients of FOIA requests were supposed to
19 ask you for legal advice in connection with those
20 requests, correct?

21 A That's correct.

22 Q So before we talk about the specific FOIA
23 request that's at issue or requests that are at issue in
24 this case, I want to ask you some questions just about the
25 Duggar family, okay?

1 A Okay.

2 Q Prior to May 20, 2015, did you know any of the
3 Duggars personally?

4 A Very, very casually, yes.

5 Q Okay. Can you tell us which of the Duggars you
6 knew and how you knew them prior to May 20, 2015?

7 A I knew Jim Bob and Michelle. The quorum court
8 is an elected position. Jim Bob was a state
9 representative for some time so sometimes they would be at
10 election watch parties that I would also be at. The very
11 most interaction personally I ever had with either Jim Bob
12 or Michelle was a handshake to say I'm Steve Zega.

13 Q So you wouldn't characterize yourself as being
14 friends with the Duggars prior to May 20, 2015, correct?

15 A That's correct.

16 Q And did you have any animosity towards the
17 Duggars as of May 20, 2015?

18 A I disagree with them politically and
19 theologically, Mr. Bledsoe, but personal animosity, no.
20 This is a, you know -- no.

21 Q All right. Let me refer you to a document
22 that's been premarked as Exhibit 29.

23 (WHEREUPON, Exhibit 29 was marked for
24 identification.)

25 A All right.

1 Q It's the Washington County Sheriff's Office
2 incident report.

3 A Okay, I have it up.

4 Q You see Exhibit 29 is a Washington County
5 Sheriff's Office incident report. It's Bates numbered --
6 well, it's actually not Bates numbered. At the bottom it
7 says, "Form Incidents WCSO," and it's a four page
8 document. Do you see that?

9 A Yes.

10 Q When is the first time you saw a copy of the
11 Washington County Sheriff's Office incident report which
12 has been marked as Exhibit 29?

13 A May of 2015.

14 Q Do you recall whether you saw a copy of the
15 incident report prior to the time it was released?

16 A Yes.

17 Q Pursuant to the FOIA request?

18 A Yes, I recall, and, no, I did not see it before
19 then.

20 Q Okay. In May of 2015, did you ever see an
21 unredacted copy of the incident report that's been marked
22 as Exhibit 29?

23 A I don't know. I know I have seen an unredacted
24 copy, but I don't know if I saw one in May.

25 Q Okay. What were the circumstances under which

1 you first saw the Washington County Sheriff's Office
2 incident report that's been marked as Exhibit 29?

3 A My recollection is that Matt Durrett, who was
4 and remains the elected prosecuting attorney for the
5 Fourth Judicial District, which is Washington and Madison
6 Counties, texted me, e-mailed me or called me and asked me
7 to review the report and provide guidance on whether we
8 should release the report in the first place and whether
9 we should continue to release it in response to more FOIA
10 requests.

11 Q And do you recall what date that happened?

12 A No, sir. I know that I was in Little Rock
13 actually on National Guard duty, North Little Rock on
14 National Guard duty and I think, but I do not recall
15 specifically, that it was the third week of May of 2015.

16 Q Okay. So is it true that Matt Durrett, the
17 prosecuting attorney, either texted, e-mailed or called
18 you after the county had released the incident report in
19 response to a FOIA request and asked you in words or
20 substance, you know, to advise whether the report had been
21 properly released in the first instance and whether the
22 county should continue to release the report; is that
23 correct?

24 A That is my recollection, yes. I know Matt and I
25 had multiple conversations about this particular topic and

1 I'm pretty sure I first learned about this from Matt.

2 Q Did you do legal research to determine whether
3 the county had properly released the incident report in
4 the first place pursuant to the incident -- the FOIA
5 request?

6 A Yes.

7 Q And what research did you do?

8 A I looked at statutes.

9 Q Anything else?

10 A I may have read some AG's opinions and some
11 FOIA, Arkansas FOIA case law, but I was focused on
12 statutory exceptions to the Freedom of Information Act.

13 Q Do you recall which statutes you looked at?

14 A Initially, I looked at the Arkansas Child
15 Maltreatment Act codified at Arkansas code annotated
16 12-18-101, et seq.

17 Q Do you recall any other statutes?

18 A Not initially. Later on, much later on and I
19 can't remember where I learned this, I learned that this
20 report formed the basis of a family in need of services
21 petition in juvenile court and I can't remember if someone
22 asked me to give an opinion about whether the Arkansas
23 juvenile code, and I'm not sure exactly what -- which
24 statute this is, but it's in Title 9, Chapter 27 of the
25 Arkansas juvenile code prohibited the release of the

1 report as well, but that was weeks, if not months, after
2 May of 2015.

3 Q After Mr. Durrett --

4 THE COURT REPORTER: I'm sorry, I just can't
5 understand you. That feedback is bad.

6 Q (BY MR. BLEDSOE) Well, we'll try again. Did
7 you respond to Mr. Durrett's question concerning whether
8 the report had been properly released in the first
9 instance and whether the county should continue to release
10 the report?

11 A I did.

12 Q Do you recall when you responded to
13 Mr. Durrett's questions?

14 A No.

15 Q What did you tell Mr. Durrett in response to
16 questions he raised with you concerning whether the report
17 had been properly released in the first instance and
18 whether the county should continue to release the report?

19 A It was my opinion that we should not have
20 released the report in the first instance and that we
21 would not continue, on my advice, to release it to anyone
22 else, we would deny further requests.

23 Q And why did you reach those conclusions?

24 A My read of the Arkansas Child Maltreatment Act
25 together with this report led me to the conclusion that

1 this was a report of child maltreatment as defined in the
2 statute and this was a document record data compilation
3 that was not just exempt from disclosure, but prohibited
4 from disclosure and that, you know, the statute
5 specifically refers to the Arkansas Freedom of Information
6 Act and says it's not -- you're not to release it pursuant
7 to the Arkansas Freedom of Information Act and there is
8 a -- you know, finally in that analysis I read through
9 chapter two of the Child Maltreatment Act and there is a
10 criminal prohibition, it's a misdemeanor to release these
11 records that qualify as child maltreatment records
12 unlawfully.

13 Q How many hours of legal research did it take you
14 to reach those conclusions?

15 A I don't remember.

16 Q Was it an hour or two or was it something that
17 took you all day, what's your best estimate?

18 A I don't know --

19 MR. OWENS: Object to form.

20 A -- Mr. Bledsoe.

21 Sorry, Jason.

22 Q (BY MR. BLEDSOE) Can you estimate for me how
23 long it took you to reach the conclusion that the report
24 should not have been released and that the county should
25 not continue to release the report after Mr. Durrett asked

1 you to look into those issues?

2 MR. OWENS: Object to form.

3 A Jason, do you want me answer the question?

4 MR. OWENS: Yes, unless I instruct you
5 otherwise.

6 A Thank you.

7 Mr. Bledsoe, I don't remember because the legal
8 research was one component of solving this problem and the
9 legal research, I don't remember whether I settled across
10 the Arkansas Child Maltreatment Act on my own or whether
11 Matt directed me to it specifically and that would drive
12 part of the answer to your question. This was a
13 comprehensive problem-solving exercise in which -- for me
14 in which legal research was one component because although
15 I did not personally know the Duggars, I knew they were --
16 I knew that they had a television program, I knew that
17 they were celebrities, and given the contents of this
18 particular report, I recognized that it had the potential
19 to be a really, really big deal, and so part of what I did
20 was read the report, analyze the contents of the report.
21 I don't know whether Matt told me because this is -- what
22 you showed me is redacted, whether he told me this
23 involved the Duggars or not. I learned it very shortly
24 thereafter. And so part of the back and forth was should
25 we have released it under the Freedom of Information Act.

1 You know, I like to go back every time I get a FOIA
2 request that I think might be controversial and read the
3 act itself and then read the Arkansas Child Maltreatment
4 Act and there was a multifaceted approach to this issue,
5 not only was it -- you know, should we have released it in
6 the first place and should we continue to release it, is
7 what do we do now that it has been released and those were
8 all things that were on my mind. I do not remember how
9 much time and can't answer the question intelligently how
10 much time I spent on legal research. I will tell you that
11 the United States Army had me on orders for a week, five
12 days at Fort -- at Camp Robinson and they did not get
13 their money's worth out of me that week because I
14 basically dealt with this issue that entire week. I
15 remember that distinctly.

16 Q (BY MR. BLEDSOE) Is it true that if the
17 sheriff's office had asked you prior to releasing the
18 report whether they should release the incident report in
19 response to the FOIA request that you would have told
20 them, no, they should not release the report?

21 A I don't know.

22 MR. OWENS: Form.

23 A I don't know.

24 Q (BY MR. BLEDSOE) In your position as county
25 attorney, what would you have done if the sheriff's office

1 prior to releasing the report had sought your legal advice
2 concerning whether to release the incident report in
3 response to the FOIA request?

4 MR. OWENS: Object to the form.

5 A I'm sorry.

6 MR. OWENS: I was just registering my objection,
7 Steve. Go ahead.

8 A Thank you. I would have done legal research and
9 much like I did with the after-the-fact question because
10 my recollection of Matt's question to me was twofold, did
11 we do right in the first place and can we continue to
12 release it. Should we release it is the same question as
13 the second part of Matt's question. I would have done the
14 legal research, that would have been my first step.

15 Q (BY MR. BLEDSOE) And when you did the legal --
16 actually did the legal research, your conclusion was, no,
17 the report should not have been released, correct?

18 A That is correct.

19 Q Did anyone from the county sheriff's department
20 or anyone else from the county ask you in your position as
21 county attorney whether the Washington County Sheriff's
22 Office incident report which has now been marked
23 Exhibit 29 should have been released in response to the
24 FOIA request prior to the time they released it?

25 A Not before it was released, no.

1 Q After the release of the incident report, did
2 you conduct any investigation to determine how it happened
3 that the report was released without -- withdrawn.

4 After the release of the incident report, did
5 you conduct any investigation to determine how it occurred
6 that the report was released without anyone asking for
7 your legal advice?

8 A Yes.

9 Q What did you find out?

10 A That the sheriff's office has or had two
11 full-time employees, civilian employees, who do nothing
12 but process FOIA requests and that if I personally laid
13 eyes on every request and passed on their legal
14 sufficiency, I would do nothing else in my capacity as
15 county attorney. So because the Freedom of Information
16 Act in Arkansas and the case law around the Freedom of
17 Information Act in Arkansas provides that disclosure is
18 the rule and nondisclosure is the exception and that
19 narrowly tailored statutory exceptions exist and you must
20 rely upon one of those narrowly tailored statutory
21 exceptions in order to refuse a FOIA request, that they
22 process five or six or eight or a dozen of these things a
23 day, FOIA requests in general, and didn't run it by me
24 because they didn't see any reason to run it by me.

25 Q As far as you know, who were the employees in

1 the sheriff's department who worked on the FOIA request
2 with regard to the incident report?

3 A My two contacts primarily at the sheriff's
4 office for this were Major Rick Hoyt and Public
5 Information Officer Kelly Cantrell. I do not know the
6 names of the clerks and still don't know the names of the
7 clerks or clerk who handled this particular request.

8 Q You testified earlier that with respect to the
9 incident report, you understood because the Duggars had a
10 TV show that this was going to be a big or important
11 issue. Do you recall that generally?

12 A Yes, sir.

13 Q And was there any policy within Washington
14 County if there was a FOIA request that was going to
15 involve big or important or sensitive issues that those
16 should be run by the county attorney prior to releasing
17 information in connection with those types of FOIA
18 requests?

19 A No.

20 MR. OWENS: Object to form.

21 Q (BY MR. BLEDSOE) As part of your review of how
22 the incident report in this case got released, did you
23 learn who at the county processed the FOIA request and who
24 made the decision, for example, to release the incident
25 report?

1 A As I said earlier, Mr. Bledsoe, I don't know the
2 clerk who worked on this. I know that at some point Rick
3 Hoyt had something to do with it, but I'm not sure exactly
4 what it was.

5 Q Do you know, for example, who made the
6 redactions to this report prior to the time it was
7 released?

8 A I do not.

9 Q Let me refer you to the FOIA request from the
10 Cross Gunter law firm dated May 15, 2015. It's been
11 marked as Exhibit 30 in this case.

12 (WHEREUPON, Exhibit 30 was marked for
13 identification.)

14 A Okay.

15 Q You see Exhibit 30 is a FOIA request from the
16 Cross Gunter law firm dated May 15, 2015 addressed to the
17 records division of the Washington County Sheriff's
18 Office?

19 A I do.

20 Q When is the first time you saw a copy of this
21 FOIA request?

22 A Yesterday.

23 Q You said yesterday?

24 A Yes, sir.

25 Q So is it true that you never saw a copy of the

1 FOIA request that the Cross Gunter law firm sent to the
2 Washington County Sheriff's Office in the May 2015 time
3 frame, correct?

4 A Not this one, Mr. Bledsoe. I saw I think one or
5 two after this, much later when it appeared that they were
6 -- Abtin Mehdizadegan, the attorney whose name appears on
7 this request, was looking for other things involving the
8 Duggars, but those happened July, August, September of
9 2015. This -- this exhibit, the first time I saw it was
10 yesterday when Mr. Owens forwarded it to me, Mr. Owen
11 rather.

12 Q After you advised Matt Durrett that --

13 THE COURT REPORTER: I didn't catch that,
14 Mr. Bledsoe, sorry.

15 MR. BLEDSOE: Pardon me?

16 THE COURT REPORTER: I didn't hear the first
17 part.

18 MR. BLEDSOE: Sure.

19 Q (BY MR. BLEDSOE) After you advised Matt Durrett
20 that the county should not have released the incident
21 report in response to the May 15, 2015 FOIA request and
22 that it should not continue to release the incident
23 report, did the county, in fact, follow your advice and
24 stop any further release of the incident report which has
25 been marked Exhibit 29?

1 A As far as I know, it did.

2 Q After the release of the incident report in
3 May 2015 in response to the Cross Gunter FOIA request, did
4 the county change its policies with respect to how to deal
5 with FOIA requests?

6 A Yes.

7 Q What are you referring to?

8 A The web portal that I mentioned is one of the --
9 one of the changes we made that would allow me to have at
10 least passive visibility of freedom of information
11 requests. The public information officer at -- Kelly
12 Cantrell at the sheriff's office, anything that remotely
13 had a child, an incident report or anything else that the
14 sheriff's office handled that involved a child victim,
15 survivor, witness, she ran it by me. There was no
16 formal -- I didn't issue a memorandum. I did -- as I
17 said, I think I sent out a couple e-mails that said please
18 run any FOIA requests by me that you think -- you know,
19 and I don't know if I set out my criteria, but please
20 bring FOIA requests to me, and, in particular, I held at
21 least one and maybe two meetings with command staff and
22 Kelly Cantrell at the sheriff's office in which I in
23 person said this is how we need to handle this going
24 forward.

25 Q Any other changes you can recall?

1 A No.

2 Q And why did you implement those changes after
3 the release of the incident report in response to the FOIA
4 request in May of 2015?

5 A Because it was my belief that we had made a,
6 what I call a hustle mistake, a good faith mistake in
7 releasing this and that we needed not to repeat that
8 mistake.

9 Q Let me refer you to -- now, this is an article
10 that we circulated this morning. Its been marked
11 Exhibit 31. Did you get a copy of that, Mr. Zega?

12 (WHEREUPON, Exhibit 31 was marked for
13 identification.)

14 A No, I did not.

15 MR. BLEDSOE: Jason, can you shoot him an e-mail
16 with that?

17 MR. OWENS: I'm sorry, you said Exhibit 31. I
18 think I only saw 29 and 30.

19 MR. BLEDSOE: Nicole circulated an e-mail about
20 15 minutes before the deposition. It's just a CNN article
21 that Mr. Zega --

22 MR. OWENS: Okay. Let me see. Oh, here it is.

23 A Okay.

24 Q (BY MR. BLEDSOE) Mr. Zega, let me know when you
25 have a copy of the CNN news article which has been marked

1 Exhibit 31.

2 A Okay.

3 Q I'm really just going to ask you some questions
4 about the first couple of paragraphs.

5 MR. OWENS: I just sent it to you by e-mail,
6 Steven.

7 THE WITNESS: Okay.

8 MR. BLEDSOE: Well, why don't -- let's take our
9 first -- you know, let's take a ten minute break. I think
10 when we come back it will be the last session. Let's take
11 a ten minute break, take a moment to review the article
12 and we'll come back and we'll do our last session, okay?

13 (Short break from 10:59 a.m. to 11:13 a.m.)

14 Q (BY MR. BLEDSOE) Mr. Zega, do you have a copy
15 of the news article which is marked as Exhibit 31 in front
16 of you?

17 A Yes.

18 Q You see the article is from money.CNN.com and
19 it's dated June 4th, 2015. Do you see that?

20 A Yes.

21 Q The article is entitled, "Duggar records
22 shouldn't have been released, Arkansas official says." Do
23 you see that?

24 A Yes.

25 Q It reads, at least the first two paragraphs,

1 "Police records about Josh Duggar's history of molestation
2 should not have been released an Arkansas County official
3 said Thursday. 'If I could build a time machine, this
4 wouldn't have come out in the first place,' Washington
5 County Attorney Steven Zega told CNNMoney." Do you see
6 that?

7 A Yes.

8 Q Did you tell a reporter from CNN on about
9 June 4th, 2015 that, "If I could build a time machine,
10 this wouldn't have come out in the first place?"

11 A I think so.

12 Q And the "this" you were referring to was the
13 incident report that was released by the county, correct?

14 A Yes.

15 Q Is it true that the incident report would not
16 have been released if the sheriff's department had asked
17 you ahead of time?

18 MR. OWENS: Object to form.

19 A I don't know, Mr. Bledsoe. Even when I was
20 county attorney, my clients didn't always follow my
21 advice.

22 Q (BY MR. BLEDSOE) Is it true that if the
23 sheriff's department had asked you ahead of time whether
24 to release the incident report, you would have told them
25 not to release it?

1 MR. OWENS: Object to form.

2 A Armed with the information I had after the fact,
3 yes, that would have been my advice.

4 Q (BY MR. BLEDSOE) Now, the next sentence of the
5 news article which is marked as Exhibit 31 says, "'I don't
6 know the sequence of events of what happened to get it
7 released. I'm looking into it myself,' Zega said." Do
8 you see that?

9 A Yes.

10 Q What did you learn of the sequence of events
11 that happened to get the incident report released?

12 A When I got back from North Little Rock from
13 guard duty, I had a meeting with Rick Hoyt, Kelly
14 Cantrell, I think her husband, Jay, who was the chief
15 deputy, Jay Cantrell was the chief deputy at the sheriff's
16 office, and I either met with Sheriff Helder then or at a
17 meeting sort of immediately after where we discussed what
18 happened. This is -- the meeting with Major Hoyt was the
19 one in which I said -- he said to me, basically, there
20 are, you know, dozens of FOIA requests a week, Steve. If
21 you -- if we sent every one of them to you, you're going
22 to do nothing but tell us whether to release or not,
23 that's all you're going to do all day. What I learned was
24 that the sheriff's office gets multiple Freedom of
25 Information Act requests a day and that their policy,

1 because this is Arkansas law, is to release records and if
2 they don't release them, to have a narrow exception based
3 in statute to release. What I understood with this
4 particular -- to not release, rather. What I understood
5 to have happened with this was it was treated as a routine
6 FOIA request and that -- the sheriff's office treated it
7 as a routine FOIA request, that because the subject matter
8 of the request involved sexual assault, they redacted
9 information relating to the people involved.

10 Q Did you learn anything else as part of your
11 investigation?

12 A I probably did, but that's all I remember.

13 Q You testified earlier about speaking with Matt
14 Durrett concerning his question about whether the report
15 should have been released in the first place and whether
16 the county should continue to release it. Do you recall
17 that generally?

18 A Yes.

19 Q Did you respond to Mr. Durrett's inquiry in
20 writing?

21 A I don't remember. There's a real good chance
22 that I didn't given the fact that I was in North Little
23 Rock on guard duty and this was sort of a triage operation
24 at the moment.

25 Q Do you still have copies of any e-mails or text

1 messages you exchanged with Matt Durrett or anyone else in
2 the county in connection with the release of the incident
3 report that's at issue in this case?

4 A I know I don't have e-mails. I would have to
5 check my phone for texts, but the e-mail -- all my e-mails
6 when I ceased being county attorney resided there. I
7 didn't bring them with me.

8 Q And you didn't delete any of those e-mails while
9 you were county attorney, correct?

10 A You are correct. No, sir, I didn't delete
11 e-mails.

12 Q And you didn't delete any text messages
13 purposely, correct?

14 A That is correct.

15 Q Have you looked to see if you had any text
16 message exchanges with Matt Durrett or anyone else at the
17 county in connection with the release of the incident
18 report?

19 A No.

20 Q We'll ask you to do that. I'm not going to bust
21 anybody's chops right now, but, Jason, if you will follow
22 up with that, we would appreciate it.

23 All right. Prior to May 2015, were you aware
24 there had been an investigation concerning Josh Duggar
25 molesting his sisters --

1 A No.

2 Q -- years earlier?

3 A No.

4 Q Is it true that you first learned about that in
5 connection with the release of the incident reports?

6 A That is correct.

7 Q I'm going to read you and we'll put it on the
8 screen, but I'm going to read you part of an interrogatory
9 response that you made in this case and I just want to ask
10 you some questions about that. So referring to your
11 interaction with the Don Lemon and CNN in early June 2015,
12 it says, "Shortly after that appearance," this is your
13 response to interrogatory number 15, by the way, so it
14 says, "Shortly after that appearance, Kelly Cantrell, the
15 public information officer of the sheriff's office,
16 contacted me to express her displeasure at what I said.
17 Kelly and her husband, Jay, who is the city deputy
18 sheriff, are long-time friends of mine and I went to see
19 Kelly as soon as I could to apologize for the way I
20 handled myself. I also went to Sheriff Helder in a
21 separate meeting and apologized to him." So I'm going to
22 ask you some questions about that, okay?

23 A Okay.

24 Q Is the statement that is referred to that Kelly
25 Cantrell is unhappy with your statement that, "If I could

1 build a time machine, this wouldn't have come out the
2 first place?"

3 MR. OWENS: Object to form.

4 A I don't remember. Mr. Bledsoe, I know she was
5 angry with me in general about my CNN appearance and
6 comments.

7 Q (BY MR. BLEDSOE) So did you actually make an
8 appearance on the Don Lemon show?

9 A Yes.

10 Q And do you recall generally what you told Don
11 Lemon during that appearance?

12 A Generally, I told him that we did not -- we
13 should not -- we, the county, should not have released the
14 report, that we were not going to repeat that mistake in
15 relation to other outlets. He probably asked -- I'm not
16 going to speculate. That's the general gist of it.
17 Everything that I've told you today is I don't think we
18 should have released the report and we were not going to
19 repeat the mistake of releasing it again.

20 Q And after you made those statements to Don
21 Lemon, is it true that Kelly Cantrell, the public
22 information officer for the sheriff's office, contacted
23 you to express her displeasure with what you said?

24 A Yes.

25 Q What did Ms. Cantrell tell you?

1 A I -- I don't remember the details, Mr. Bledsoe.
2 What I remember is she was unhappy with me because it made
3 it seem like the sheriff's office had done something wrong
4 in releasing the information.

5 Q But at the time, you did believe the sheriff's
6 office had done something wrong in releasing the
7 information, correct?

8 A That's correct, a mistake. I want to be clear
9 about that. I believe they made a mistake, not a -- you
10 know, there was no plot to, that I was ever aware of, to
11 hurt somebody.

12 Q I'm going to move to strike after that is
13 correct as nonresponsive, but that's for the judge.

14 Do you recall anything else Kelly Cantrell told
15 you about being unhappy with the statements you had made
16 to Don Lemon on CNN?

17 A No.

18 Q And did you apologize to Ms. Cantrell?

19 A Yes.

20 Q Why did you apologize?

21 A Because I could have handled myself and simply
22 not commented to the press and it would have -- I made a
23 mistake in going on Don, I could have told him no. I
24 should have told him no.

25 Q When you said you made a mistake, you believe

1 you made a mistake by talking to Don Lemon at all about
2 this issue?

3 A Yes.

4 Q And why do you believe it was a mistake to talk
5 to Don Lemon about the issue?

6 A Because it inflamed the -- well, one, it
7 inflamed my relationship with people I like an awful lot,
8 I trust and had a really good working relationship at the
9 sheriff's office; two, it wasn't necessary to do the job.

10 Q And did you also apologize to Sheriff Helder?

11 A Yes.

12 Q And why did you apologize to Sheriff Helder?

13 A Because, you know, he's the elected official.
14 Tim's a longtime friend of mine, somebody for whom I have
15 an awful lot of respect in a really, really difficult job
16 and I liked him and it was the same reasons that I
17 apologized to Kelly first and then apologized to the
18 sheriff, I want to say two or three days later.

19 Q At any time during the second half of May or the
20 June 2015 time frame, did anyone at the county sheriff's
21 office ever express regret to you for having released the
22 incident report?

23 A I don't remember.

24 Q At any time during -- you know, after May --
25 well, withdrawn.

1 At any time between May 2015 and the end of
2 June, for example, 2015, did anyone at the sheriff's
3 office apologize or admit that they had made a mistake in
4 releasing the incident report?

5 A So it seems to me there are two parts to that
6 question.

7 Q Well, let me ask you -- that's fair, so I'm
8 going to sustain your objection, not that you made an
9 objection.

10 A I'm not making an objection, I'm a witness.

11 Q I know, I'm kidding. But at any time between
12 May 20, 2015 and the end of June 2015, did anyone at the
13 county sheriff's department ever tell you that you were
14 right, they had made a mistake in releasing the incident
15 report?

16 A I don't remember words like that, no.

17 Q What do you remember?

18 A I remember what I told you before, Mr. Bledsoe,
19 which is whenever -- it's sort of a remedial thing going
20 forward, whenever there was a report that involved a child
21 victim, a child survivor or even a child witness and that
22 report was the subject of a Freedom of Information Act
23 request, Kelly, in particular, would reach out to me
24 whenever and say, Steve, I've got this, should we release
25 it. And so the behavior changed at the sheriff's office,

1 but not -- I don't remember anybody ever saying we messed
2 this up. I don't know that it didn't happen either. My
3 concern during that whole mess was how can I repair, if I
4 could repair, the relationships I had with good people at
5 the sheriff's office.

6 Q And you felt like you needed to repair
7 relationships with people you had at the sheriff's office
8 because you had probably said that releasing the incident
9 report was a mistake and they were unhappy with that,
10 correct?

11 A Mr. Bledsoe, I'll stand on my former testimony
12 with that. I felt like I needed to apologize, one,
13 because, frankly, I pissed them off and, two, because I as
14 a practical matter besides the fact that they were friends
15 of mine whose friendship and relationships I value
16 professionally, it was imperative to me to have a good
17 working, trusting relationship with them and, as I said, I
18 could have done the job without going on Don Lemon to talk
19 about we had screwed up.

20 MR. BLEDSOE: Let me check with my colleagues
21 here. Let's just take about two minutes and then I think
22 we'll be -- we'll finish up, okay?

23 THE WITNESS: Very well.

24 (Short break from 11:30 a.m. to 11:31 a.m.)

25 MR. BLEDSOE: I don't have any further

1 questions. Thank you for your time, Mr. Zega. And go
2 Army.

3 THE WITNESS: Thank you. Beat Navy.

4 MR. BLEDSOE: Although, I do have a good friend
5 who played quarterback at Navy for a couple years.

6 THE COURT REPORTER: Are we off or did anyone
7 else have questions?

8 MR. OWENS: I'll reserve.

9 (DEPOSITION CONCLUDED AT 11:31 A.M.)
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

C E R T I F I C A T E

I, Kerri Pianalto, Certified Court Reporter, do hereby certify that the above-named STEVEN ZEGA was by me first duly sworn to testify the truth, the whole truth, and nothing but the truth, in the case aforesaid; that the above and foregoing deposition was by me taken and transcribed pursuant to agreement, and under the stipulations hereinbefore set out; and that I am not an attorney for nor relative of any of said parties or otherwise interested in the event of said action.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal this 15th day of September, 2021.

KERRI PIANALTO, CCR

State of Arkansas, No. 651

DECLARATION UNDER PENALTY OF PERJURY

Case Name: Dillard vs. City of Springdale

Date of Deposition: 09/09/2021

Job No.: 10087128

I, STEVEN ZEGA, hereby certify

under penalty of perjury under the laws of the State of

_____ that the foregoing is true and correct.

Executed this _____ day of

_____, 2021, at _____.

STEVEN ZEGA

NOTARIZATION (If Required)

State of _____

County of _____

Subscribed and sworn to (or affirmed) before me on

this _____ day of _____, 20__,

by _____, proved to me on the

basis of satisfactory evidence to be the person

who appeared before me.

Signature: _____ (Seal)

1 DEPOSITION ERRATA SHEET

2 Case Name: Dillard vs. City of Springdale

Name of Witness: Steven Zega

3 Date of Deposition: 09/09/2021

Job No.: 10087128

4 Reason Codes: 1. To clarify the record.

2. To conform to the facts.

5 3. To correct transcription errors.

6 Page _____ Line _____ Reason _____

7 From _____ to _____

8 Page _____ Line _____ Reason _____

9 From _____ to _____

10 Page _____ Line _____ Reason _____

11 From _____ to _____

12 Page _____ Line _____ Reason _____

13 From _____ to _____

14 Page _____ Line _____ Reason _____

15 From _____ to _____

16 Page _____ Line _____ Reason _____

17 From _____ to _____

18 Page _____ Line _____ Reason _____

19 From _____ to _____

20 Page _____ Line _____ Reason _____

21 From _____ to _____

22 Page _____ Line _____ Reason _____

23 From _____ to _____

24 Page _____ Line _____ Reason _____

25 From _____ to _____

1 DEPOSITION ERRATA SHEET

2 Page _____ Line _____ Reason _____

3 From _____ to _____

4 Page _____ Line _____ Reason _____

5 From _____ to _____

6 Page _____ Line _____ Reason _____

7 From _____ to _____

8 Page _____ Line _____ Reason _____

9 From _____ to _____

10 Page _____ Line _____ Reason _____

11 From _____ to _____

12 Page _____ Line _____ Reason _____

13 From _____ to _____

14 Page _____ Line _____ Reason _____

15 From _____ to _____

16 Page _____ Line _____ Reason _____

17 From _____ to _____

18 Page _____ Line _____ Reason _____

19 From _____ to _____

20 Page _____ Line _____ Reason _____

21 From _____ to _____

22 _____ Subject to the above changes, I certify that the
transcript is true and correct23 _____ No changes have been made. I certify that the
transcript is true and correct.

24

25 _____
STEVEN ZEGA